

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DENISE WARD, as Guardian/Conservator of MICHAEL WARD, MICHAEL WARD, Individually, and DENISE WARD, Individually,

Plaintiffs,

Case No. 09-cv-548-JPG

v.

GATEWAY INTERNATIONAL MOTORSPORTS CORPORATION d/b/a GATEWAY INTERNATIONAL RACEWAY, GENUINE PARTS COMPANY and JACQUELINE R. BREEDEN,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on defendant Genuine Parts Company's motion to withdraw its notice of removal (Doc. 7). The plaintiffs originally filed this suit in the Circuit Court for the Twentieth Judicial Circuit, St. Clair County, Illinois. Genuine Parts Company removed the case on the basis of original diversity jurisdiction, but now seeks to withdraw the notice of removal and to have this case remanded to state court. The plaintiffs agree that this case should be remanded to state court and have asserted their right to remand based on procedural defects in the notice of removal, namely, (1) the failure of all served defendants to join in writing in the notice of removal, *see McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651, 653 (7th Cir. 1998); *Roe v. O'Donohue*, 38 F.3d 298, 301 (7th Cir. 1994), *overruled in part on other grounds by Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999), and (2) the forum defendant rule, *see* 28 U.S.C. § 1441(b).

Remand is appropriate based on the aforementioned procedural defects. Accordingly, the Court **GRANTS** Genuine Parts Company's motion to withdraw the notice of removal (Doc. 7) and **REMANDS** this case to the Circuit Court for the Twentieth Judicial Circuit, St. Clair County, Illinois.

**IT IS SO ORDERED.**

**DATED: August 13, 2009**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**